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CONAIR CORPORATION
7

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 CYNTHIA L. CZUCHAJ, a
California resident; ANGÉLIQUE
11 MUNDY, a Pennsylvania resident;
BARBARA MCCONNELL, a
12 Michigan resident; and PATRICIA
CARTER, a New York resident,
individually and on behalf of
13 themselves and all others similarly
situated,

14 Plaintiffs,

15 vs.

16 CONAIR CORPORATION, a
Delaware Corporation; and DOES 1
17 through 10, inclusive,

18 Defendants.

19 Case No.: 13-cv-1901 BEN (RBB)
Honorable Roger T. Benitez

20 **CLASS ACTION**

21 **NOTICE OF UNAVAILABILITY AND
REQUEST TO CONTINUE HEARING
DATE FOR THE MOTION FOR CLASS
CERTIFICATION**

22 Date: November 6, 2015
Time: 10:00 a.m.
Courtroom: 5A

23 Complaint Filed: August 15, 2013

24 First Amended
Complaint Filed: December 17, 2013

25 Second Amended
Complaint Filed: June 2, 2014

ROSEN ♦ SABA, LLP
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BEVERLY HILLS, CALIFORNIA 90212

1 **TO THIS HONORABLE COURT:**

2 Defendant Conair Corporation requests that the hearing date for the motion
3 for class certification be continued from November 6, 2015, to any date thereafter.

4

5 **I. COURT'S PRIOR ORDERS**

6 On July 20, 2015, this Court issued an order setting the hearing on the
7 motion for class certification to take place on October 19, 2015. [Docket #95.] On
8 October 15, 2015, this Court issued an order changing the hearing to November 6,
9 2015. [Docket #151.]

10

11 **II. CONTACT WITH THE COURT.**

12 On October 16, 2015, the day after the Court changed the hearing on the
13 motion, Plaintiff and Defense counsel jointly contacted the clerk of the Court to
14 jointly request a continuance of the hearing from November 6 to any other date.
15 The reason for the request was because Defense counsel, Mr. Saba, has a pre-paid
16 family vacation and is not available on November 6. The Court clerk advised the
17 parties that a minute order would be issued, but did not indicate one way or the
18 other whether the request would be granted or denied.

19 No minute order has yet been issued, so out an abundance of caution,
20 Defense counsel submits this document to the Court.

21

22 **III. MR. SABA IS UNAVAILABLE.**

23 Mr. Saba is the lead attorney on this matter for Conair and has handled all of
24 the day to day activity since this case was filed in 2013. Mr. Saba handled all of
25 the depositions and was personally responsible for researching and drafting the
26 opposition to the motion for class certification. There is no other attorney in Mr.
27 Saba's firm that has the intimate knowledge of the applicable law and the facts of
28 this case. Accordingly, if this Court conducts oral argument, then his presence is

1 necessary at the motion for class certification hearing.

2 Since the hearing was originally scheduled for October 19, Mr. Saba
3 scheduled a family vacation for himself, his wife and three young children to go to
4 Hawaii. Mr. Saba's flight leaves Los Angeles International Airport on Sunday,
5 November 1, 2015 at 10:00 a.m. (United Flight #417). Mr. Saba's flight returns
6 from Hawaii on Friday, November 6, 2015, at 9:00 p.m. (Delta Flight #1196).

7 For the above reasons, Conair respectfully requests that the hearing set for
8 November 6 be moved to any other date thereafter that is convenient for the Court.

9
10 DATED: October 28, 2015

ROSEN ♦ SABA, LLP

11
12 By: /s/ Ryan D. Saba

13 Ryan D. Saba, Esq.
14 Momo E. Takahashi, Esq.
15 Attorneys for Defendant
16 CONAIR CORPORATION

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DECLARATION OF RYAN D. SABA

1 I, Ryan D. Saba, declare as follows:

2 1. I am an attorney at law and the lead counsel for Conair in this matter.

3 If called upon to testify, I could and would competently do so.

4 2. I have been the lead attorney on this matter for Conair since this case
5 was filed in 2013. I handled all of the depositions and was personally responsible
6 for researching and drafting the opposition to the motion for class certification.
7 There is no other attorney in my firm that has the intimate knowledge of the facts
8 of this case.

9 3. Since the hearing was originally scheduled for October 19, I
10 scheduled a family vacation for myself, my wife and three young children to go to
11 Hawaii. My flight leaves Los Angeles International Airport on Sunday, November
12 1, 2015 at 10:00 a.m. (United Flight #417). My flight returns from Hawaii on
13 Friday, November 6, 2015, at 9:00 p.m. (Delta Flight #1196). Upon request, I will
14 provide the purchased tickets to this Court.

15 4. Plaintiff's counsel and I contacted this Court the next day after the
16 November 6 hearing date was set to advise of my unavailability. The Court clerk
17 advised us that a minute order would be issued, but did not indicate one way or the
18 other whether the oral request to continue the hearing would be granted or denied.

19 5. No minute order has yet been issued, so out an abundance of caution,
20 I am submitting this request to the Court.

21 6. I selected this week for the vacation because I just completed a
22 Federal trial in the Central District yesterday and I have taxed my family's patience
23 over the last 4 months by leaving extremely early in the morning and coming home
24 well after the children are asleep. I cannot continue the vacation because, upon my
25 return, I immediately start an arbitration trial on November 10, 2015, for 4 days
26 and then I have another arbitration trial on November 16 that will last 5 days.
27 Then there is the week of Thanksgiving. My December is as equally busy. As a
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partner in a heavy litigation firm, it is extremely difficult to carve out family vacations, which are unfortunately extremely rare for our family because of my work ethic and commitments. Cancelling this vacation would devastate my children and wife's expectations.

I declare under the penalty of perjury of the laws of the United States that the information in this declaration is true and correct. This declaration was executed in Beverly Hills, California on October 28, 2015.

/s Ryan Saba
Ryan Saba

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